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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,267	01/27/2004	Raymond Willis Blodgett JR.	18393-512	3429
7590	05/08/2006		EXAMINER	
INSKEEP INTELLECTUAL PROPERTY GROUP, INC.			PEDDER, DENNIS H	
Attn: James W. Inskeep Suite 205 1225 W 190th Street Gardena, CA 90248			ART UNIT	PAPER NUMBER
3612				
DATE MAILED: 05/08/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/766,267	BLODGETT, RAYMOND WILLIS
	<b>Examiner</b>	<b>Art Unit</b>
	Dennis H. Pedder	3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 April 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-28 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-22,27 and 28 is/are rejected.
- 7) Claim(s) 23-26 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
Paper No(s)/Mail Date: _____	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

1. This application has been reviewed once again, an extensive search conducted for claims which are, as seen below, to be overly broad, as evidenced by the several references cited, and the affidavit of 7/27/2005 examined once again. A new rejection follows as a result.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-10, 27-28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

No support is found in this application for the claim to “load ...distributed laterally in a horizontal plane containing said first and second support rails”. What plane is intended? How is one of ordinary skill to determine if the load is confined to a horizontal plane?

Claim 27 does not appear to be supported by the disclosure as filed. No connection in a horizontal plane is apparently disclosed. What plane is intended? How is one of ordinary skill to determine if the load is distributed laterally as opposed to vertically or at an angle?

Applicant is cautioned regarding the insertion of new matter in this application.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-18, 20-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is not apparently disclosed as to the above language and the claim is considered incorrect.

Claims 6-7, 12-14, 20-22 are incorrect. The two support rails cannot be connected along a vertical plane and yet have a connecting structure therebetween, claim 6. Nor can they be joined along a single vertical junction and yet be connectively spaced, claim 12. Nor are they fixed to each other, claim 19, if they are connectively spaced.

Claim 11 is vague. Does the claim state that the rails are joined at the same height or that the rails are the same height?

Claim 27 appears to be incorrect. Only connection in a vertical plane appears to be disclosed.

#### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-2, 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Goeser et al.

Goeser et al. have frame with first and second members 21/22 and 42. Second member 42 has two rails joined at a vertical juncture as seen in figure 6. Load is considered to be

distributed laterally for a severe load bending member 42 until its lower section impacts the rollers 30. Goeser et al. has floor 47.

As to claim 10, member 42 is within the confines of member 22.

As to claim 11, the two support rails of member 42 are joined at the same height.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-2, 8-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Anderson.

Anderson has first and second frame members 42,30 and support rails 32/48 joined in a vertical plane with load distributed laterally. Anderson has floor 133.

9. Claims 1-2, 8-9, 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Stanley.

Stanley has first and second frame members 25A/54R/F and 27A. Support rails 27A and 54R/F or connected along a vertical plane with load considered to be distributed laterally via the depending and upstanding projections for member 27A. Stanley has floor 23.

As to claim 11, the members 27A and 54 are joined at the same height.

10. Claims 27-28 are rejected under 35 U.S.C. 102(e) as being anticipated by McManus et al., US 2002/0084664.

Reexamination of the affidavit of 7/27/2005 reveals that no evidence is provided to establish a date of conception prior to October 24, 2000 regarding the embodiment with two support rails and a connecting member therebetween. Therefore the reference to McManus et al. is effective against these claims which have an effective date of conception of the parent file 09/723020 of November 27, 2000.

Figure 11 of McManus et al. is self-explanatory with connective structure 288 and support rails 284,286.

As to claim 28, see rack 290.

11. Claim 27 is rejected under 35 U.S.C. 102(e) as being anticipated by Rasmussen, 6,338,523.

See first and second frames 54, 46 in figure 2 with the second frame comprised of first rail 110 and second rail 110 with connective structure 40 and floor at bottom of 16.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Goefer et al., Anderson and Stanley.

Welding two vehicle frame members together is common knowledge in this art to provide a permanent joint.

Applicant may seasonably challenge, for the official record in this application, this and any other statement of judicial notice in timely manner in response to this office action. Please specify the exact statement to be challenged. Applicant is reminded, with respect to the specific challenge put forth, of the duty of disclosure under Rule 56 to disclose material which is pertinent to patentability including claim rejections challenged by applicant.

14. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goefer et al.

Forming the two support rails of member 42 of the same height, the lower member being shown slightly smaller in height, is deemed to be an obvious expedient to increase the strength of the side wall of member 42.

*Allowable Subject Matter*

15. Claims 4-5, 15-18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
16. Claims 23-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Information Disclosure Statement*

17. The information disclosure statement filed 8/16/2004 fails to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.

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No listing of any documents is found in this file and no further evidence of the submission of such is found.

***Response to Arguments***

18. Applicant's arguments with respect to claims above have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

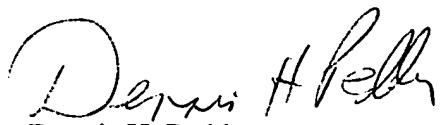
19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bartnicki is cited to show extensible support rails.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (571) 272-6667. The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

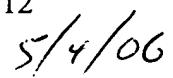
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Dennis H. Pedder

Primary Examiner

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DHP

5/4/2006